89-1328

SUPREME COURT, U.S.
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No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1989

LOUISE W. GOODRICH,

Petitioner,

v,

COUNTY OF LOS ANGELES,

Respondent,

PETITION FOR WRIT OF CERTIORARI TO THE CALIFORNIA COURT OF APPEAL, SECOND APPELLATE DISTRICT, DIVISION SEVEN

PETITION FOR WRIT OF CERTIORARI
(with Two Appendix Volumes)

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Louise W. Goodrich,
in propria persona

82 pp

QUESTIONS PRESENTED FOR REVIEW

1. Do consumer protection laws such as THE NATIONAL MANUFACTURED HOME CONSTRUCTION & SAFETY STANDARDS ACT OF 1974 contain rights which rise to the level of entitlement to protection under the Vth & XIVth Amendments of the Constitution?
2. Is a recorded legal document a property protected by the Vth & XIVth Amendments to the United States Constitution?
3. Where deprivation of multiple rights is alleged, was it error for the Court of Appeal not to consider County policies to determine whether a cause of action was independently stated?
4. Does the California State-enacted Tort Claims Act apply when causes of action allege tortious conduct by a County which: (a) is not identified therein? (b) causes deprivation of multiple rights proximately caused by County policy? (c) aids & abets a successful conspiracy?

LIST OF ALL PARTIES

Louise W. Goodrich, plaintiff, petitioner.

Los Angeles County, defendant, respondent, demurring party.

Other parties named in the Eighth Cause of Action for Conspiracy,

Redman Homes, Inc.;

Bratton Enterprises, Inc.;

Conrad's Mobilehome Service;

Halart Escrow Co.

are not parties to any of the demurrer motions brought by the County, and are not parties to this Petition.

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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1989

No._____

LOUISE W. GOODRICH,

Petitioner,

v.

COUNTY OF LOS ANGELES,

Respondent,

PETITION FOR WRIT OF CERTIORARI TO THE CALIFORNIA COURT OF APPEAL, SECOND DISTRICT DIVISION SEVEN

The Petitioner, Louise W. Goodrich, hereafter "Petitioner", respectfully prays that a writ of certiorari issue to review the opinion of the California Court of Appeal, Second District, Division Seven, filed in the above referenced matter on August 11, 1989. (Petition for Review by Supreme Court of California denied on November 21, 1989).

OPINIONS BELOW

The opinion of the Court of Appeal Second Appellate District, Division Seven, which was not for publication, is reproduced in the Appendix hereto (Vol. II, App. A, at p. 1a)*. (Supreme Court of California denied Petitioner's Petition for review of Appeal Court's opinion, on November 21, 1989, and is reproduced in Vol. II, App. B, at p.42a) (Judge Howard J. Schwab, law and motion court's order sustaining the County of Los Angeles', hereafter "County", demurrer motion and dismissing the County from suit was filed March 31, 1988, is reproduced in Vol. II, App. C, at p. 44a). (Judge Robert L. Roberson, law and motion court's Minutes entered October 24, 1986, is reproduced in Vol. II, App.D, at p.51a, Notice of Ruling is reproduced in Vol. II App. E at p. 53a).

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* The Appendix hereto is presented in two appended volumes, designated herein "App."

JURISDICTION

Petitioner seeks review of Opinion of the Court of Appeal entered on August 11, 1989.

By Order dated November 21, 1989, the Supreme Court of California denied Petitioner's Petition for Review (App. B p. 42a) This Court's jurisdiction is invoked under 28 U.S.C. §§ 1331, 1343(3); 42 U.S.C.A §§ 1983 1985(3).

CONSTITUTIONAL PROVISIONS, FEDERAL AND STATE ENACTMENTS

UNITED STATES CONSTITUTION, Art. I, Sec. VIII, (3.); Sec. X, (1.); Art. VI, (2.). [Vol. III, App. p. 59a]

AMENDMENTS TO THE CONSTITUTION, Art. V; Art. IX; Art. XIV, (1), (5). [Vol. III, App. p. 59a]

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CONGRESSIONAL ACTS 42 U.S.C. §§ 1983, 1985 [Vol. III, App. p. 62a]

The National Manufactured Home Construction and Safety Standards Act of 1974. 42 U. S. C. § 5401 et seq. (applicable sections) [Vol. III, App. p. 63a]

FEDERAL EGULATIONS Code of Federal Regulations, Title 24--Housing and Urban Development, CH. XX--Office of Assistant Secretary for Housing

Part 3280. Manufactured Home Construction and Safety Standards (applicable sections) [Vol. III, App. p. 69a]

Part 3282. Manufactured Home Procedural and Enforcement Regulations (applicable sections) [Vol. III, App. p. 78a]

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California Administrative Code Title 25 Mobilehome Parks Act, Chapter 2, Subchapter 1, Art. I, Administration and Enforcement (applicable sections) [Vol. III, App. p. 93a]

Government Code § 815.6 Mandatory duty of public entity to protect against particular kinds of injuries; § 818.4 Issuance, denial, suspension or revocation of permit license, etc.; § 818.6 Failure to inspect, or negligent inspection of, property [Vol. III, App. p. 108a]

Health and Safety Code, State Housing Law Division 13, Chapter 2, (applicable sections) [Vol. III App. p. 109a.]

The Mobilehomes, Manufactured Housing Act of 1980. Health and Safety Code § 18000 et seq. (applicable sections) [Vol. III, App. p. 110a.]

STATEMENT OF THE CASE

A. NATURE OF THE CASE

Petitioner brought suit in the Superior Court of Los Angeles County, California, Department 83, against Redman Homes, Inc., Bratton Enterprises, Inc., Conrad's Mobile-

home Service, Halart Escrow Co., and the County. The first six Causes of Action were against the other defendants only.

All defendants were named in the citation in the Second Amended Complaint, hereafter "2AC", Eighth Cause of Action, hereafter "8CA", for Conspiracy in pursuit of a common goal: that a damaged and defective structure, which had been substituted for the new home Petitioner agreed to purchase, remain on her real property, without cure and unfit to qualify for a properly recorded legal document showing her real property to be improved. This Cause of Action was brought under the Vth and XIVth Amendments to the United States Constitution, hereafter "U.S. Constitution", and 42 U.S. C. §§ 1983, 1985. The County was named as "state actor" therein.

The demurrer motion brought by the County to this 8CA was sustained with leave to amend. None of the other defendants were

party to the demurrer or its subsequent Appeal, or to this Petition.

Petitioner's 2AC, Seventh Cause of Action hereafter "2AC, 7CA", against County only, was for the County's failure to perform mandatory duties. The County demurrer to this cause of action was sustained without leave to amend on grounds that Government Code §§ 818.4 and 818.6, commonly known as "immunities laws", were applicable.

In Petitioner's Third Amended Complaint the 8CA alleging Conspiracy was repleaded. A Seventh Cause of Action against the County only,was added for deprivation under color of law, of Petitioner's property and valuable property interests, without Due Process, and for deprivation of the Equal Protection of the law, under 42 U S.C. § 1983, and Vth & XIVth Amendments to the U.S. Constitution.

The County demurred to both of these Causes of Action citing the California State-

enacted immunities laws as above. These demurrer motions were heard by Judge Robert L.Roberson, in Department 83, who sustained them with leave to amend.

The demurrer motions of the County to these two causes of action, repleaded in 5th Amended Complaint, hereafter "7CA, 8CA of 5AC", were transferred to Lancaster Court, where they were not heard but were transferred to Van Nuys. At oral argument Judge Howard J. Schwab repeatedly stated, "the County botched the job". Nevertheless Judge Schwab ignored the verified pleadings which set forth with specificity several County policies and practices which proximately caused the deprivations of Petitioner. He sustained the demurrer motions without leave to amend stating that County policies had not been stated, and dismissed the County from suit.

Petitioner appealed the sustaining of all three demurrer motions (7CA, 2AC,"Breach of

Mandatory Duty"; 7CA and 8CA of 5AC, "Deprivations of Rights" and "Conspiracy") and the dismissal of County from the suit.

The jurisdiction of California Superior Court was invoked under 42 U.S.C. §§ 1983, 1985.

B. SUMMARY OF FACTS ALLEGED IN THE VERIFIED PLEADINGS MATERIAL TO THE CONSIDERATION OF THE QUESTIONS PRESENTED

In February, 1983, Petitioner purchased two residential lots in the unincorporated area of Los Angeles County. County Engineer-Facilities, Building and Safety Division, Lancaster Office, is the local enforcement agency of jurisdiction. County personnel in this office advised Petitioner she could improve her real property with a manufactured home* and gave her printed

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* A manufactured home is subject to "The National Manufactured Home Construction and Safety Standards Act of 1974" 42 U.S.C. § 5401 et seq., and related Federal Regulations; A manufactured home located outside of a mobilehome park in California, is subject to The Mobilehomes, Manufactured Housing Act of 1980. H & S Code § 18000 et

material, "Notice to Applicant for Mobile-home On Residentially Zoned Lot", which set forth conditions to be met.

In March, 1983, Petitioner entered into a contract with a manufactured home dealer to purchase a new home for all cash. Home to be manufactured-to-order, and installed on her residential real property which is not located in a mobilehome park. [Health and Safety Code § 18551**, hereafter "H & S"] The dealer agreed to transport the home in two section to the property site, and to install it (set-up, attach the two units together, tie it to the permanent foundation, and to hook it up to utilities). Dealer hired the services of a subcontractor to provide installation services.

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seq., § 18551. [Vol. III, App. p. 118a]

** For the Court's convenience, reference sections of applicable laws will be bracketed. Text of all bracketed laws are set forth in full in Vol. III of Appendix.

Petitioner agreed to provide all lot preparation, utilities, and the concrete portions of the permanent foundation. She hired the services of a private contractor and agreed to pay for permits for his work. Manufacturer agreed to provide the structure, manufactured in conformance with the Federal Standards regulating such commercial product [CFR Part 3280.], and to produce and furnish permanent foundation plan blueprints designed and engineered in compliance with Ch. 29 of the Uniform Building Code, hereafter "UBC", to be used with the model it was hired to manufacture for Petitioner.

Manufacturer agreed to supply the documents required for Plan Check: floor plans (the design of the model), foundation plans, and site installation instructions. [CA Adm Code § 1020(a)(2),(3); § 1020(b); 1333]

An escrow was opened by the dealer. Unknown to Petitioner, the instructions

furnished to escrow by dealer did not reflect the type of home which Petitioner contracted to purchase. [H & S Code § 18059.5] The escrow agent used a preprinted form. It did not require a Recorded Form HCD413 to be used to close the escrow. [H & S Code § 18551(a)(6)]

County is the local enforcement agency of jurisdiction. [H & S Code § 18300(f)] In June, 1983, manufacturer's materials were submitted to Plan Check [CA Adm Code § 1022(e)(2)]. In accordance with customary County practices, plan checkers did not examine the contents of the materials submitted, and failed to note or to reject the manufacturer's nonconforming design and installation instructions which were for a mobilehome designed to be used without a permanent foundation [CA Adm Code § 1022(e)]. County erroneously designated Petitioner as an owner-builder, issuing all building permits to her, including a second

foundation permit with notation, "M. H. on perm. found.", charging her the fees for an installation permit [CA Adm Code §§1020(a), (c)(1), (2); 1024(a)] eighty ($80) dollars, at the time. Contrary to H & S Code par 2, § 18613, neither dealer nor dealer's sub-contractor applied for an applicable permit to install the manufactured home.

In August, 1983, the manufacturer produced the structure to the design as approved by Plan Checkers. The lot preparation and all other work performed by Petitioner's independent contractor, was inspected, and approved by County. The home, in two units, was transported to the site by the dealer.

When the manufacturer failed to design the home as a completely integrated structure, [Act, § 5413(e); CFR §§ 3280.305(a), 3280.306(a)] and when Plan Checkers failed to reject the documents supplied by the manufacturer, [CA Adm Code §§ 1020(d) and 1022(e)] it created an on-site dilemma: the

configuration of the structure was not suited to be lowered onto the permanent foundation without modification. The procedures set forth in the manufacturer's DAPIA-approved installation instructions [CFR § 3280.303 (a); 3282.203(b)(10)] could not be followed, since they were designed for a mobilehome to be installed upon a temporary support system which is not the same as a permanent foundation which contains a concrete perimeter stem wall. [Act, § 5402(6); CFR §§ 3280.2(a)(16); 3282.7(v)] County did not issue a stop-work order [CA Adm Code § 1046] nor require a permit for variation to be obtained from the HCD [H & S Code § 17290].

The dealer's subcontractor improvised methods and procedures to attach the two sections of the home together and to attach the structure to the concrete perimeter stemwall which were accepted by the County.

The structure was damaged and failed to

conform to the Federal Standards [CFR § 3282.7(o]. The purpose for which tie-downs are required was defeated. [CFR § 3280.302 (a)(3); 3280.306(a), (b); 3282.303 (c)]

In September, 1983, Petitioner noticed many cracks and other defects in the structure, after it had been lowered onto the concrete foundation, and gave written notice to the dealer, manufacturer, installer and escrow. County acknowledged the damages and defects to exist, but did not report them to the HCD (SAA), since County policy does not require Federal or State manufactured housing laws to be followed. [H & S Code § 18613.]

Neither dealer nor manufacturer complied with the Federal Regulations regarding remedy of damages and defects in a manufactured home. [CFR § 3282.401(a),(b); 3282.404 (b)]. Subcontractor disclaimed responsibility. The manufacturer sent a worker to the site who covered up and

obscured many of the visible damages and defects in the interior of the structure, but failed to investigate [§ 3282.404(b)] or report the faulty installation of the support piers underneath the structure.

County failed to monitor the installation [H& S Code §§ 18613, 18614], to inspect the support piers, or to perform the tests to the utilities. [H & S Code § 18025(a); CA Adm Code §§ 1362(a) water distribution system, and drainage piping system; (b) fuel gas piping system and vents; (c) electrical wiring; which correspond to CFR §3280.601, plumbing system; § 3280.705(a), gas; § 3280.612 (a) and (b), water; § 3280.610, drainage; 3280.810(a) & (b), electrical.]

In October, 1983, Dealer's subcontractor called for a final inspection approval by the County and, unknown to Petitioner, submitted a form to the County to sign which was not applicable to manufactured homes installed as improvements to real

property [see Vol. III, App. p.125a, which details the proper Form HCD to be used for this purpose, and H & S Code § 18551(a)(6)]

Petitioner and her friend [witness] were present at the site on this occasion and vigorously opposed the County agent's signing of this document, specifically pointing out that the floors were sagging and uneven, and that the cross-over duct was in contact with the ground [CFR § 3280.715(a)(5)(ii)]. Petitioner explained she was still in the process of attempting to get the damages and defects remedied through the dealer and/or manufacturer.

County dismissed her objections stating that the sagging floors were only "cosmetic defects", but issued a correction card to dealer's installer regarding the duct's contact with the ground. County did not inform the HCD (SAA) that damages and defects had not been corrected, and that a controversy existed. [H & S Code § 18613.]

County inspector ignored Petitioner's authority, (since all permits had been issued to her as an owner-builder), and in compliance with customary and usual practices of the County, accepted the contractor's word that the home complied with the governing laws and all the work had been performed in a proper and workmanlike manner, in lieu of performing inspections, and signed the false document.

Petitioner was not informed that a special document was required to be used for this type of installation. Nor was Petitioner informed that the applicable document, Form HCD413, was required to be recorded by the County, and that the recorded document was required to be used to close an escrow for the sale of this type of home. [H & S Code § 18551(a)(6); see App. p. 125a]

On the same day, October 17, 1983, dealer submitted the signed document to escrow, knowing the structure was in damaged and

defective condition, thereby completing a prohibited sale to Petitioner. [CFR §§ 3282.8(e); 3282.251(a), (b)] Escrow closed.

Unknown to Petitioner, Dealer executed an official HCD Form, Dealer's Report of Sale, using another official HCD Form, Power of Attorney, to which Petitioner's signature had been forged. (When this forgery was discovered over a year later, Petitioner had it verified by an expert examiner of documents.) The Dealer's Report of Sale contained certification that the structure complied with all applicable laws, and that it had been installed upon a temporary support system in a mobilehome park.

Petitioner was not given a copy of this document. As a result, the HCD issued mobilehome park decal and papers to Petitioner. [H & S Code §§ 18075.5, 18551.]

County has not recorded any document at any time, showing Petitioner's ownership of a manufactured home as improvement to her

real property.

In November, 1983, County signed all building permits, including utilities, as having been inspected and approved, notwithstanding that the mandatory tests and inspections had not been performed.

In November, 1983, at great effort and discomfort, Petitioner crawled underneath the structure to see what might be responsible for the defective sagging floors.

She was shocked to find the piers, the purpose of which is to support the structure, were not installed properly on the concrete pads, and in some instances were not even in contact with the "I" beams, the main frame of the chassis, on which the structure is built. [CFR §§ 3280.301; 3280.302(a)(10), (11), (14)]

Petitioner notified the manufacturer, installer, and County, with written notification sent to dealer. Promises were made but no inspections, investigations or

corrections were forthcoming. [CFR §§ 3282.401(a), (b); 3282.402(e); 3282.404(b)]

In January, 1984, Petitioner made formal complaint to the HCD. The HCD advised Petitioner to request the conditions of the support piers be inspected by the County. County issued a report limited to citing the conditions Petitioner had found.

Petitioner vigorously pursued remedies. In August, 1984, HCD sent representative to the site who made cursory inspection, and stated that the County held jurisdiction over the installation of the piers.

Receiving no cooperation from the local County Lancaster office, in September, 1984, Petitioner contacted the main County Offices in Los Angeles, demanding written information regarding the responsibilities of the County, and that a proper inspection be performed.

Two inspectors from the Lancaster office came to the site, made cursory inspection

of the support piers, but withheld the report for a few weeks. In October, 1984, Petitioner received "Information Bulletins" from the County, which had been issued by the HCD,* [see Miscellaneous App. p. 125a] and a County Memo giving explicit information regarding enforcement agency duties.

In November, 1984, a meeting took place in County Supervisor Antonovich's offices where Petitioner met with County superior officials of the Building & Safety Department, Don Wolfe; County Recorder's Office, Saeed Amanullah; and County Counsel, Helen S. Parker; presided over by Supervisor Antonovich's Deputy, Sherry Foote.

At that meeting Mr. Wolfe, concurred in by Ms. Parker, ratified all actions taken by the personnel of the Lancaster Office. Mr. Wolfe specifically stated that the plan

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* Copies of these Bulletins were attached to the 2AC to take judicial notice; and incorporated in the 5AC.

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checking duties had been performed in compliance with the County policy: only to look at the numbers on the documents [CA Adm Code § 1022(e)]; and, that the final inspection had been performed in compliance with the County policy: to spend no more than five minutes on a Final Inspection Approval [CA Adm Code §§ 1020 (c) (2), (3); 1024(b); 1326(a), (b); H & S Code § 18613].

They disclaimed any duty of the County or its agents and representatives to comply with either Federal or State manufactured home laws, citing the County's own ordinances [Act § 5403(d); CFR §3282.11(e); H & S Code §§ 18015; 18025; 18025.5(a); 18300(a), (f); CA Adm Code § 1000]. (An official County policy.)

They confirmed that no document had been recorded. [H & S Code § 18551(a)(6)] They disclaimed any duty to report the damaged conditions of the structure to the HCD, [18613, 3rd Par.] and told Petitioner they

held her personally responsible for any violations since she was the permit holder of record, (an official County policy) and, since the Certificate of Occupany was voidable, she could be cited for living in the home [H & S Code § 18550(e)].

The harrassment, and callous attitude of these superior County Officials caused Petitioner extreme emotional distress.

Petitioner's friend [witness] who was also present at this meeting, requested that a written summary of this meeting be sent to Petitioner. Letters were sent wherein cooperation was promised to get the matter remedied. Nothing was accomplished.

Petitioner notified the HCD of this unsatisfactory meeting, and they undertook an inspection in December, 1984, issuing their report of 68 substantial defects and violations in February, 1985.*

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* Copy of this Report was attached to both the 2AC and 5AC.

In January, 1985, in order to preserve her rights, Petitioner gave "Notice of Claim" to County, which was duly rejected on March 21, 1985.

In response to the HCD Report, in April, 1985, manufacturer sent worker to the site to begin corrective work, a broken waste drain pipe was discovered, replaced, and all corrective work ceaced, without any explanations.

Finally, June, 1985, Petitioner hired the services of a lawyer, and suit was timely filed in September, 1985.

The County demurred, citing immunity.

The matter has been prevented from being heard by any Court through the demurrer motions of the County.

The substituted, damaged, defective and unsafe structure, in nonconformance with the Federal Standards, installed on Petitioner's real property in 1983, remains there to this day, unfit to be peacefully

enjoyed as her home, unfit to be issued a recorded document (title), and unfit to be sold [Constitutions of both the United States and the State of California].

Petitioner alleged in her verified pleadings all of the events and happenings as set forth above.

C. ENTITLEMENTS AND DEPRIVATIONS ALLEGED IN PETITIONER'S VERIFIED PLEADINGS OF THE 7CA AND 8CA OF 5AC

As a citizen, and a resident of the State of California, Petitioner is entitled to all of the Rights and benefits directly bestowed by the U.S. Constitution and the Vth and XIVth Amendments thereto, and the Constitution of the State of California.

The Rights affected are: to contract; to own and hold title to every species of property; to dispose of her property in any lawful manner as she sees fit; to defend herself and her property not merely by physical force but through the force of the body politic; to peacefully and safely

enjoy her home; not to have her property "taken" without Due Process; and to the Equal Protection of the laws of the land.

Purchasers, including Petitioner, are entitled to all of the rights and benefits contained in the National Manufactured Home Construction and Safety Standards Act of 1974, and related Federal Regulations.

These include the rights: to receive the manufactured-to-order home she contracted to purchase in conformance with the Federal Standards in every respect; that the dealer is prohibited from altering the home in any manner as to render it in nonconformance with the Federal Standards; that the dealer is prohibited from completing the sale of a defective home; that when a manufactured home may contain an imminent safety hazard, serious defect, defect, or non-compliance, procedures to be followed by manufacturers, SAAs, and the Secretary, to effect speedy remedies therefor, are set

forth in the CFRs.

Purchasers of a manufactured home, including Petitioner, in the State of California, which has applied for and been accepted to participate in the Federal Enforcement Program, are entitled to all of the rights and benefits contained in the Mobilehomes, Manufactured Housing Act of 1980, Health and Safety Code § 18000 et seq.; The Mobilehome Parks Act, H & S Code § 18300 et seq.; CA Adm Code § 1000 et seq.

These include the right to have the enforcement agency of jurisdiction perform the service of Plan Check which ensures that the design and configuration of the home in question, and the site installation instruction therefor, comply with the Federal Standards, and, when applicable, the design and engineering of the permanent foundation plans therefor, comply with CH. 29 of the UBC; if the plans being checked do not comply, to have the plan checkers

notify the applicant and identify the manner in which they do not comply; to re-submit the plans and to have them re-checked for an additional fee.

These also include the right to have the enforcement agency provide services: to perform tests to the utilities; inspect the structure for defects and damages; report defects and damages to the HCD (SAA); to notify the HCD (SAA) when a controversy exists; as well as to call for a reinspection for an additional fee.

Purchasers of manufactured homes which are to be installed on residential lots not located in a mobilehome park, including Petitioner, are **ENTITLED** to have the local enforcement agency of jurisdiction use, complete, and RECORD a specific HCD Form 413, **A LEGAL DOCUMENT**, showing their ownership of a manufactured home which has been converted from status of personal property to that of improvement to real

property, and taxed accordingly.

All persons who are, or, however erroneously may have been, designated an owner-builder, such as Petitioner, and to whom all building permits have been issued, have the right to sole authority over the project under their control which includes that no unauthorized third party may call for a final inspection approval, or request that a Certificate of Occupancy be issued.

Petitioner alleged that the County has usual and customary practices and officially adopted policies regarding the performance of all of these services which were followed by the field personnel and County Officials, which proximately caused her to be deprived of the applicable rights and entitlements enumerated above.

Petitioner further alleged that Officials of the County, at the meeting held in November, 1984, **RATIFIED** all of the actions taken or omitted, by the field personnel

regarding Petitioner's home, and detailed the official County policies with regard to providing these services. These Officials stated the County policy that they were not required to comply with either Federal or State manufactured housing laws.

Petitioner alleged: (1) that she was, and is, being deprived of her property, her home and its recorded legal documentation of ownership of an improvment to her real property, without due process; (2) that she was and is being deprived of the equal protections found both in the Federal and State enactments regarding manufactured homes; (3) that a conspiracy existed which was intended to harm her and deprive her of the home she innocently and in good faith agreed to purchase; (4) that the policies and participation of the County enabled the goal of the conspirators to be achieved and were the proximate cause of Petitioner's deprivations. [CFR §§ 3282.8(e),

3282.251(a), 3282.252.]

Additionally, Petitioner alleged in her 5th Amended Complaint, that the County has an officially adopted policy of reliance upon the California State-enacted immunity laws. Such reliance permitted improper hiring and training practices which proximately caused Petitioner's original deprivations. This policy has proximately caused these deprivations to continue unabated, and now, without redress.

REASONS FOR GRANTING WRIT

I

The status of consumer protection laws is a question which has not been, but should be addressed by this Honorable Court. It affects all citizens whom Congress intends to benefit and protect when it passes this type of Congressional Act.

Whether the Federal Act provides cognizable benefits to manufactured home purchasers affect all persons within the class.

II

The recording of legal documents is an essential part of life in a country where ownership of property is guaranteed under its Constitutional provisions.

Since the Appeal Court has given its opinion that a legal document is not a property entitled to protection under the XIVth Amendment, this Honorable Court's opinion is necessary to secure justice.

III

Where two causes of action met their individual criteria to establish bona fide complaints under §§ 1983 and 1985, and the "State actor" therein is dismissed from the suit on grounds that a different cause of action against it, that only alleges a tort under State law, and which has a different criteria to be met in order to state such cause of action, the question of which cause of action should take priority of consideration on appeal, is a question

which should be addressed by this Honorable Court to establish orderly priorities which are in harmony with Article VI (2), of the U. S. Constitution.

IV

(a) Whether State judges can expand State-enacted immunities laws to include other tortious conduct not specified therein, is a matter of grave concern affecting the due process rights of all citizens which should be settled by this Honorable Court.

(b) Whether a state-enacted immunity law is applicable to tortious conduct taken in compliance with County policies and which deprives a citizen of property, and the equal protection of a federal law, is a question of Federal law which requires clarification by this Honorable Court in order to prevent miscarriage of justice.

(c) Where the acts of the "state actor" under color of law are in compliance with customs and official policies, and further

a conspiracy such that the goal of the conspirators is successfully achieved, whether the state-enacted immunities laws are applicable is a question of Constitutional law.

V.

Where violations of Constitutional Rights are numerous, and the laws complex, a decision by a Court of Appeal should not be based upon the misapprehension of the facts pleaded.

ARGUMENT IN SUPPORT OF THE REASONS

I

When the Appeal Court considered whether the Federal Act contained cognizable benefits, it gave as its opinion that consumer protection laws do not rise to the level of property interests protected by the Vth and XIVth Amendment. (App. p. 32a) This opinion includes all Congressional Acts designed for the benefit of consumers. The National Manufactured Home Construction and Safety

Standards Act of 1974, 42 U.S.C. § 5401 et seq., is such an Act of Congress.

It is unique among such laws in that it relates exclusively to a purchaser's home, protected under the Constitutions of both the United States and California [App. pps. 59a-61a].

Since there are no case laws in this important area, it is a case of first impression.

When an Act of Congress puts a particular commercial industry and its product under Federal regulation, it promotes the general welfare of the people. It limits the powers of the State.

> "In accordance with the very wording of the XIVth Am, Congress has the power by appropriate legislation to enforce the provisions preventing the State from denying to any person within its jurisdiction the equal protection of the laws".

CIVIL RIGHTS CASES, 109 US 3, 27 LEd 835, 3 S CT 18;
DEPARTMENT OF MENTAL HYGIENE v. HAWLEY, 59 C 2d 247, 28 CAL Rptr. 718, 379 P2d 22;

The Act does not impose a duty of

enforcement either on the states or their political subdivisions. However, it does restrict the States and their political subdivisions from taking any action which impairs the Congressional superintendence of the manufactured home industry [Act, § 5403(d); CFR § 3282.11(e)].

This Act is under enforcement jurisdiction of the Secretary of HUD. The purpose of Congress was to provide manufactured home purchasers with durable structures of reasonable quality and safety.[Act, § 5401] Federal regulations were promulgated regarding standards of construction and safety, [CFR Part 3280.] as well as procedures to be followed by manufacturers, SAAs, and the Secretary when a manufactured home fails to conform. [CFR Part 3282., Subpart I, § 3282.401 et seq.]

These remedies by-pass the need for costly and time-consuming litigation. They are meant to protect the rights of all.

[Act, § 5421; CFR § 3282.401(a)]

All of these regulations offer significant benefits to which all manufactured home purchasers are entitled.
[Act, §§ 5413 (e), 5421; CFR § 3280.305(a), §§ 3280.306(a), 3282.8(f)]

A State may voluntarily apply to the HUD Secretary to participate in the Federal Enforcement Program as State Administrative Agency (SAA).[Act § 5422(a)] In order to be accepted, a State must submit a State Plan [Act § 5422(b); CFR § 3282.302(a) & (b), 3282.305, 3282.303(b), (c)]

CFR § 3282.302(a)(8) permits the State to use other agencies to carry out the State Plan. [see H & S Code § 18300 et seq.; CA Adm Code § 1004(a)(3) & (4), and (c)]

A certification is required to be made by the Administrator in charge of the State Agency. This certification is found on page 3 of the California Amended State Plan Application dated August 28, 1981:

> "I certify that upon approval of this amended application the State plan will be carried out in full, and that the regulations issued under the [Federal Act] will be followed."
>
> signed by I. Donald Terner, Director.

California was accepted to participate. It enacted The Mobilehomes, Manufactured Housing Act of 1980, Health and Safety Code § 18000 et seq.; the Mobilehome Parks Act, H & S Code § 18300 et seq., with mobile and manufactured home regulations promulgated in CA Adm Code § 1000 et seq.

Since these state enactments are part of the State Plan which are required to be carried out in full, they have the force of Federal Law. Therefore, purchasers of manufactured homes are not only entitled to the protections contained in the Federal Act and related regulations, but also to the protections and benefits of the state laws related to manufactured homes.

These benefits include plan check, tests, inspecting, reporting damages, the use of

particular documents and the recording of same. [CFR §§ 3280.203(b)(10), 3280.303(a); H & S Code §§ 17958.3, 18015, 18025.5(a) & (b), 18300(f), 18503, 18613; CA Adm Code §§ 1020(a), (c)(1), (2), (d), 1022(e), (e)(2), 1024(a), (b), 1320, 1333, 1362, 1364.]

There is a need for this Honorable Court to provide guidance to all Courts by addressing the issue of whether or not these manufactured home laws, both Federal and State, contain cognizable benefits; and whether Federal consumer protection laws rise to the level of property interests and rights entitled to protection under the Vth and XIVth Amendments to the United States Constitution.

> "To have a property interest in a benefit, a person clearly must have more than an abstract need or desire for it, he must instead have a legitimate claim of entitlement to it." BOARD OF REGENTS v. ROTH, U.S. 564,577, (1972) DAVIS v. MANSFIELD METROPOLITAN HOUSING AUTHORITY, 751 F. 2d 180 (6th Cir. 1984) SWAN v. GASTONIA HOUSING AUTHORITY 502 F.Sup. 362 (W.D.N.C.1980)

An opinion by this Honorable Court

will clarify the status of Federal enactments protective of consumers. It is of importance and affects all citizens in such a wide range of activities that it could be said to permeate daily life.

II

The requirement under state law [H & S Code § 18551] that a specific legal form, HCD413, be recorded and copy given to the owner, creates and defines a very valuable property interest to which all purchasers of this type of manufactured home are entitled. [App. p. 125a]

Petitioner submits that recording of this legal document is not part and parcel of the inspection process, as the Appeal Court opined (App. p.30a). An inspection may be made whether or not a document is required to be recorded; a document may be recorded whether or not an inspection is required to be made. Failure to record a legal document is not an activity identified in the State-

enacted immunities laws as being shielded. [Govt. Code §§ 818.4, 818.6]

The legitimate claim of entitlement to a recorded legal document, showing ownership of one's home, a tangible property, must be on a par with entitlement to a horse trainer's license, which the Appeal Court denies. (App. p.34)

> "Property does not have rights. People have rights. The right to enjoy property without unlawful deprivation, no less than the right to speak or the right to travel is in truth a "personal right" whether the property in question be a welfare check, a home or a savings account." LYNCH v. HOUSEHOLD FINANCE CORP., 405 U.S. 538,552(1972)

Petitioner respectfully requests this Honorable Court to consider and determine the status of a legal document.

III

> "The right of protecting property is not the simple right to protection by individual physical force, but is the right to protect property by the law of the land and the force of the body politic"; MECKER v. MANNING, D.C. Conn (1982), 540 F Supp. 131;

To throw a case out of court at a demmur-

rer stage of an action is a serious matter. Such a decision should not be made without examining whether sufficient facts were pleaded to state a viable cause of action.

In the instant case, the 7CA of 5AC met the criteria to state a cause of action under § 1983: (1) the rights affected were stated with particularity; (2) the "state actor" was identified; and, (3) the County policies, and usual and customary practices of the County which proximately caused the deprivations of Petitioner's Constitutional rights to occur, were alleged.

The 8CA of 5AC met its criteria to state a cause of action for conspiracy. In additions to the allegations contained in the 7CA of 5AC Petitioner alleged the goal of the conspirators, the actions taken by each in furtherance of the conspiracy, intent to cause harm to Petitioner, and finally that the County policies proximately caused the achievement of the goal and that Petitioner

suffered the deprivation of multiple Constitutional rights and her property without due process, as a result.

> "Essential elements of any action under section governing civil acts for deprivation of rights are proof of conduct committed by a person acting under color of state law to deprive the person of rights, privileges, or immunities secured by the Constitution or laws of the United States." AVERY v. COUNTY OF BURKE, 660 F. 2d 111 (1981)

The Appeal Court focussed its attention on the 7CA of 2AC alleging tortious conduct regarding performance of mandatory duties, a State law tort [Govt. Code § 815.6].

It decided that this 7CA of 2AC failed to meet its criteria, and that the tortious conduct was shielded by Govt. Code §§ 818.4 and 818.6. It specifically stated that the recording of a document was part and parcel of the inspection process. (App. p. 30a)

Based on this conclusion, and their conclusion that consumer protection laws do not rise to the level of rights protected

by the XIVth Amendment, and that the Federal Act did not contain cognizable benefits, the Court of Appeal decided that Petitioner had suffered no deprivations. (App. p. 35a.) Therefore, they reasoned, the question of whether County policies had been stated (the basis of the lower court's sustaining of County's demurrers to 7CA & 8CA of 5AC), which are necessary in order to plead facts sufficient to state a cause of action under §§ 1983 and 1985, should not be considered (App. p. 36a.)

This line of reasoning is contrary to the individual test criteria for stating causes of action under §§ 1983 and 1985. Neither requires a breach of a mandatory duty by the State actor under color of law.

The only interpretation this decision can be given by a reasonable and prudent person is that:(1) the criteria to be met to state a cause of action under CA Govt. Code § 815.6 is also being applied to the causes

of action brought under §§ 1983, 1985; and (2) the immunities laws are also being applied to these causes of action.

Where two or more causes of action are pleaded in the same suit, and one pleads deprivations of Constitutional rights, and another pleads tortious conduct under State law, and both have had demurrers sustained, whether each should be considered independently, and if not, then, which cause of action should have priority consideration by an Appeal Court, is a question involving the supremacy of the U.S. Constitution, and Federal law, over state law. [Art. VI (2) of the U. S. Constitution, App.p. 59a.]

Each cause of action and its criteria to be met should be considered individually if justice is to prevail.

Petitioner sincerely believes it is of sufficient importance to warrant an opinion by this Honorable Supreme Court.

IV

The California Tort Claims Act contains specific language regarding which actions of governmental entities are protected by immunity. In § 818.4 it states, "A public entity is not liable for an injury caused by the issuance, denial, suspension or revocation of . . . any permit, license, certificate, approval, order, or similar authorization . . . where the public entity is authorized by enactment to determine whether or not such authorization should be issued, denied, suspended or revoked." and § 818.6 states, " A public entity is not liable for injury caused by its failure to make an inspection, or by reason of making an inadequate or negligent inspection, of any property, . . for the purpose of determining whether the property complies with or violates any enactment or contains or constitutes a hazard to health or safety." (a) An examination of the language used

in Government Code §§ 818.4, 818.6, clearly shows that Plan-check, tests, reporting, and recording duties are not actions which are specified therein as enjoying immunity. All of these duties are mandated under manufactured housing laws.[Act,§§ 5408(2), 5422(c)(7); CFR §§ 3280.303(a), (b), 3280.304(b)(4), 3280.305(a),3280.306(a)(1) & (2), (b), 3280.610 (c)(5), 3280.612(a), (b)(3), 3280.201, 3280.709 (g)(1)(ii), 18031.5, 3280.715(a)(5)(ii), 3280.810(b), 3282.1(b), 3282.203(b)(10),3282.251(a) (b), 3282.254(a), 3282.402(e); H & S Code §§ 18015, 18025(a),(b), 18025.5(a), (b), 18207, 18300(a), (c), (f), 18503(a), 18550(a), (e), 18551(a)(1), (3), (4)-(6), 18613; CA Adm Code §§ 1004(a)(4), (c), (d), 1020(b), (c)(2), (3), (d),1022(e)(1), (2), 1024(b), 1320, 1326(a), (b), 1333(c)-(e), 1362(a)-(c), 1364, 1366.]

Where these immunities are applied to the issuance of a Certificate of Occupancy that

is called for by an unauthorized person, it raises a serious question of Constitutional law. It would leave all owner-builders who, under State law, are solely responsible for violations, totally unprotected from unscrupulous third parties.

The local governmental entity has a fiduciary duty, under the contract of the permit, to issue the Certificate of Occupancy only on the request of the permittee, and no other.

Petitioner, permittee, owner-builder, not only did not request a final inspection to be made, or the Certificate of Occupany to be issued, she vigorously opposed it.

Whether the County and the Courts are in error when they apply these immunities laws under these particular circumstances, is proper to be decided only by this Court.

(b) Do the immunities laws apply when the deprivation of multiple rights are proximately caused by County policies?

Appeal Court's opinion is in conflict with the lower Court's opinion since neither sustained the demurrer motions (8CA, 2AC; 7CA & 8CA of 5AC) based upon immunity.

The arguments set forth in pps. 42, 44, 45, herein, and the customary and usual practices of the County set forth in pps. 21-23 herein, are applicable.

Where County policies cause deprivation of Constitutional rights, States cannot immunize the "state-actor" from a suit brought under § 1983.

> " Conduct by persons acting under color of law which is wrongful under Civil Rights Act or conspiracy statute cannot be immunized by state law; a construction of the federal statute which permitted a state immunity defense to have controlling effect would transmute the basic guarantee into an illusory promise; supremacy clause of the Constitution insures that the proper construction may be enforced 42 U.S.C.A. §§ 1983, 1985(3). HAMPTON v. CHICAGO, 484 F. 2d 602 (1973) U.S. Court of Appeals Seventh Circuit

(c) In the instant case the harsh reality and an undisputed fact is that the damaged and defective structure remains on

Petitioner's real property to this day, and that she is still without a recorded legal document. Both the home and the document are tangible properties to which Petitioner has an absolute, unqualified entitlement and right, secured by both the U. S. and California Constitutions. County policies proximately caused these deprivations through its actions which furthered the goal of the conspiracy: that this house remain on her real property without cure.

Each conspirator's acts which furthered the conspiracy were set forth in detail in Petitioner's verified pleadings of the 5AC. (see Hampton, supra)

The opinion reached by the Appeal Court in this instance negatively affects any citizen, anywhere. The opportunity to bring their grievance before a Judge and Jury for proper resolution of their Constitutional Rights which have been deprived by County policies, is denied to them.

"... there is no municipal discretion to violate the federal constitution... the dictates of the Constitution are absolute and imperative." OWEN v. CITY OF INDEPENDENCE, MISS. 445 U.S. 622, 100 S. Ct. 1398, 63 L.Ed. 2d 673 (1980) Id. CITY OF NEWPORT v. FACT CONCERTS INC., 453 U.S. 247, 69 L. Ed. 2d 616, 101 S. Ct. 2748 (R.I. 1981);

This case is being thrown out of Court at the demurrer stage through a County policy of asserting immunity.

Whether Courts may expand state immunity laws to shield tortious conduct not enumerated therein, is a decision for this Honorable Court, and will assure uniformity of interpretation of the law.

V.

The problem with this case is that it is not confined to the deprivation of a single right, and single incident. The federal and state laws involved are complex and are intricately interwoven. This case should not be litigated at the demurrer stage. To throw the case out of Court at the demurrer stage defeats due process and deprives

Petitioner of the benefits of presenting documentary evidence and testimony of a witness in support of the facts alleged which are at issue. It denies the full examination of the laws as they relate to the County policies proximately causing the deprivations complained of.

42 U.S.C. § 1983 was enacted by Congress to provide the means of redress when a citizen suffers deprivation of Rights secured by the U. S. Constitution.

> ". . .any rule that penalizes a plaintiff for the mere form in which the pleadings are cast is inherently unfair and deserves to be discarded." BARRINGTON v. A. H. ROBBINS CO. (1985) 39 Cal. 3d 146, 151; 702 P.2d 563; 216 Cal. Rptr.

The Appeal Court based its opinion on a misapprehension of the facts alleged in the verified pleadings.

(App. p. 4a)--The escrow was selected and opened by dealer who gained control over its close by providing false instructions. The closing of escrow was the culmination

of a series of events taken by different participants at various times, but throughout, it was the County policies followed by its agents and representatives and superior officers which permitted, aided and abetted the wrongful conduct, which proximately caused the deprivations to occur.

(App. pps. 5a-8a) The Appeal Court looked first to the 7CA of 2AC and ignored the major complaints set forth with specificity in the 7CA & 8CA of 5AC: multiple deprivations of Constitutional Rights, valuable property interests and property without due process, and the denial of the equal protection of the laws of the land.

(App. p. 6a) The contract contained the notation, "This order contingent upon final acceptance by customer."

(App. pps. 8a-10a) Referring to Question 1: The "routine" inspections by a local enforcement agency apply only to site-built constructions. A manufactured home requires

specific services to be provided and tests to be performed in order to carry out the State Plan, and stem from Federal laws regulating the commercial product. The Act, § 5422(c)(11) mandates compliance with CFR § 3282.302(a)(8), the language of which is mandatory: the State Plan will be carried out in full. The fees to be charged for services set forth in CA Adm Code § 1000 et seq is authorized under H & S Code § 18503.

Question 2. The Appeal Court failed to consider the role of Plan Checkers and all others, including Don Wolfe and Helen Parker, County superior officer, and legal counsel, who ratified all actions of the subordinates. (pps 21-23, 29, 30 herein.)

> "Where Supervisory personnel tolerate known Constitutional deprivations by subordinate personnel, such tacit encouragement can rise to level of policy or custom, thereby subjecting a municipality to liability under § 1983. "Municipalities are liable under§ 1983 for de facto policies or practices which engender Constitutional deprivation; informal actions, if they reflect general policy, custom, practice or pattern of official conduct depriving

> individuals of their Constitutional rights, satisfies § 1983 standards." SPELL v. McDANIEL, 591 F Supp. 1090 (E.D.M.C. 1984)

Question 3. However these failures proximately caused the house to be in nonconformance with the Federal Standards. These County policies proximately caused a prohibited sale to be consummated.

The real question is whether Petitioner is suffering deprivations, and whether these deprivations were proximately caused by a series of actions taken in compliance with County policies.

(App. p 9a-10a) When a person is deprived of her home she is entitled to some relief.

(App. pps 12a-14a) Congress did not intend the benefits of the Act and related regulations to be defeated by local enforcement agencies. Only if the State submits a State Plan and is approved to participate in the Federal Enforcement Program, may a local enforcement agency gain authority under State law to enforce

the Federal Regulations regarding manufactured homes. [Act § 5403(a), (d); CFR § 3282.11(e); H & S Code §§ 18015, 18025(b), 18025.5(a), (b), 18300(f), 18551 (a)(6); CA Adm Code § 1004 (a)-(e)]

A State is authorized under CFR § 3282.302(b)(8) to use the personnel of other agencies to carry out its State Plan. (App. pps 12a-14a) Local land use was not pleaded nor is it an issue. It is totally irrelevant. [CA Adm Code § 1332]

(App. p. 12a) Facts pleaded demonstrate that the County was first involved with the home and manufacturer at the Plan checking stage of the project, in June, 1983. The substituted structure was produced and delivered in August after the County Plan Checkers approved the manufacturer's plans. (App. p. 15a-16a) Petitioner based her theory of general damages on extreme emotional and mental distress and duress proximately caused by County policies as

officially explained and enumerated by County officials at the meeting held in November, 1984, in Supervisor Antonovich's offices. (see pps 21-23, herein)

> "If City impliedly or tacitly authorized , approved or encouraged harrassment of individual, it promulgated "official policy" such that it could be liable under Civil Rights statute; "official policy" may be inferred from informal acts or omissions of supervisory municipal officials." TURPIN v. MAILET 619 F. 2d 196 (2d Cir. 1980) cert. denied, 449 U.S. 1016 (1980)

When a person is deprived of property and has no choice simply to sell it and thus extricate herself from complex problems, that suffering is not to be ignored because the Federal Act did not anticipate and make specific provisions for violations of civil rights in connection with the purchase of the product. Section 5420 of the Act is irrelevant and not alleged in pleadings.

Congress did intend to provide rights [Act § 5421; CFR § 3282.401 et seq.].

(App. p 16a-27a) The requirements to be met to state a cause of action under Govt.

Code § 815.6, according to the cases cited by the Appeal Court came into being in 1989 and 1987. The 7CA of 2AC was written and demurrer heard in 1985-6. The Appeal Court lists H & S Code §§ 18015, 18551, 18613, 18614, but fails to list § 18300 which was included in Petitioner's verified pleadings and which imposes a mandatory duty on the County [H & S Code § 18300(a)-(c), (f)]

An enforcement agency is presumed to know the statutes under its enforcement jurisdiction. In the instant case H & S Code § 17958.3 requires local agencies to obtain and retain in their offices copies of these laws. The reference to the Information Bulletins which were attachments to the 2AC set forth specific sections of California enactments. An example, setting forth documentation requirements of H & S Code § 18551, is in App. p. 125a. Other Bulletins contained the Cal Adm Code §§ regarding test procedures. [CFR § 3280.1, (e)(1),(2)]

An attachment to pleadings may provide the missing necessary facts. In this instance, the mere fact that the laws cited were contained in official Bulletins issued by the HCD (SAA), which are not in themselves an enactment, does not strip the statutes cited therein of their force of law. H & S Code § 18551(a)(6) is not advisory, it is written in mandatory language regarding the recording of the legal document.

(App. p. 25a-27a) Notification of defects to the department (SAA), enures to the benefit of a purchaser, in that procedures which effect speedy remedies are required to be followed by SAAs in the Act and CFRs. [Act § 5422(c) (2), (5); CFR § 3282.301, 3282.302 (b)(1); 3282.8 (b), (e),(f)].

(App. 27a-30a) Immunity is not applicable when the tortious conduct complained of is taken in compliance with County policy and proximately causes deprivations of Rights

protected by the XIVth Amendment.

(App. p. 29a-31a) Recording and reporting duties are not shielded by Govt. Code §§ 818.4, 818.6. Being inapplicable or unconstitutional are two different theories.

Petitioner is attacking the claim of the County in its demurrers that these sections are applicable. When fees are set by statute, based upon time spent in providing the services, the duties imposed by the enactment are mandatory. [Govt. Code § 815.6] Immunity does not apply.

Tests to manufactured homes set forth in CA Adm Code, stem from Federal Standards. This manufactured home is under Regulation by an Act of Congress under the Commerce Clause. Immunity is not applicable.

(App. p. 31a-35a) Consumer protection rights have been dealt with in I, pps 34-40 herein.

> "The equal protection clause guarantees to all persons under like circumstances that they shall have equal protection and security in the enjoyment of

> personal and civil rights in the acquisition and enjoyment of property in the enforcement of contracts and in the prevention and redress of wrongs." PEOPLE v. FINLEY, 150 C 59, 94 P. 248, Aff'd. 222 U.S. 28, 56 LEd 75 MULKEY v. REITMAN, 64 C2d, 50 CAL Rptr. 881, 413 P2d 825, affd. 387 US 369, 18 L.Ed 2d 830, 87 S Ct 1627; PURDY & FITZPATRICK v. STATE, 71 C2d 566, 79 CAL Rptr 77, 456 P2d 645,38 ALR 3d 1194;

(App. p. 32a) The test whether Due Process rights are violated, as Mr. Justice Cardoza is quoted in the Appeal Court's opinion were met by Petitioner. The basic and fundamental rights alleged to be affected in her verified pleadings include the right to: contract; own and hold title to the improvement on her real property; live peacefully and safely in her home; defend herself and her property; and dispose of her property.[App p 59a-61a]

The U. S. Constitution and Vth and XIVth Amendments prohibit a State from depriving a person of property without due process.

> "The inalienable rights to acquire, contract, own, enjoy, protect and dispose of property, are among the

civil rights that were intended to be protected from discriminatory state action by the due process clause of the Federal Constitution. MILLER v.McKENNA, 23 C2d 774, 147 p.2d 531; SEI FUJII v. STATE 38 C 2d 718, 242 P2d 617; PEOPLE v. TAGGART, COLO (1981) 621 P2d 1375

"DEPRIVATION OF PROPERTY" does not require actual physical taking but occurs when free use and enjoyment or power of disposition is affected"; McINNES v.McKAT, (1928) 141 A, 699, 127 MC. 110 affrmd 49 S. Ct. 344, 279 U.S. 820, 73 L.Ed 975;

The statement by Appeal Court that "There was no deprivation of a constitutional right in the instant case . . . " shocks the conscience. The Appeal Court failed to consider the gravamen of this egregious situation. Petitioner respectfullly would point out that a damaged house which is not in conformance with the Federal Standards, which would not pass in the trade as fit for the ordinary purpose for which it was intended and ordered, and which was substituted for the home she agreed to purchase, has remained on Petitioner's real property since 1983 to the date of writing

this Petition for Writ of Certiorari.

Whether the California Appeal Court's Opinion should be overturned and Petitioner granted the right to go to trial on the issues is a personal matter affecting only Petitioner. But, the underlying reasons upon which the Appeal Court based its opinion, and which are preventing Petitioner from redress under §§ 1983 and 1985, affect all persons in the future, in California, who may be subjected to County demurrers based upon state-enacted immunity laws.

CONCLUSION

Without an opinion by this Honorable Supreme Court declaring that Petitioner has a right to present her case to a Court of competent jurisdiction, and to a jury to determine the facts, her right of redress for the wrongs suffered, including the taking of her property without due process, and the denial of the equal protections of

the manufactured home laws, both Federal and state, will be denied forever.

An Opinion by this Honorable Court is urgently necessary regarding the four questions asked: the status of Federal consumer protection laws; the property rights of citizen's in their legal documents; the priority of Constitutional causes of action over State tort actions; and the reminder that State-enacted immunities laws are not applicable to suits brought under §§ 1983, 1985(3), and that a law must be interpreted in conformance with its language.

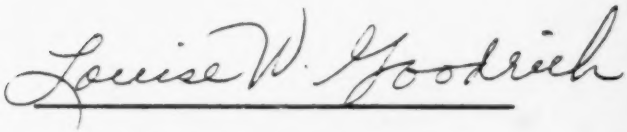
This Supreme Court's answers to these questions are of universal interest to all persons who are entitled to the guarantees of the United States Constitution.

This is a case involving the Supremacy of the United States Constitution, the Federal Laws promulgated thereunder, and the rights protected by the Vth and XIVth

Amendments.

For all of the foregoing reasons, Petitioner respectfully requests this Honorable Supreme Court to grant this Petition for Writ of Certiorari.

Respectfully submitted,



LOUISE W. GOODRICH
in propria personna